

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE CONFERENCE)
OF THE NAACP, *et al.*,)
Plaintiffs,) Civil Action No.: 1:22-cv-00339
v.)
LEIGH M. CHAPMAN, *et al.*,)
Defendants.) Judge Susan P. Baxter

INTERVENOR-DEFENDANTS' MOTION FOR LEAVE TO FILE UNDER SEAL
EXHIBITS MARKED OR DEEMED CONFIDENTIAL

Pursuant to this Court's Protective Order, *see* ECF No. 230, the Intervenor-Defendants, the Republican National Committee, the National Republican Congressional Committee, and the Republican Party of Pennsylvania, seek leave to file under seal certain exhibits of their appendix which are considered confidential under the Protective Order, and state as follows:

1. The Protective Order permits parties to "designate as 'Confidential' documents, testimony, written responses, or other materials produced in this case if they contain information that the producing party has a good-faith basis for asserting is confidential under the applicable legal standards." Doc. 230 ¶ 3.

2. The Protective Order directs that "In the event that any party wishes to submit Confidential Information to the Court, such party shall follow the procedures prescribed by the Court, including obtaining leave of Court prior to filing any documents under seal." *Id.* ¶ 4.

3. Pursuant to the Court's Case Management Order, dispositive motions are due by April 21, 2023, with oppositions thereto due May 5, 2023. *See* Doc. 207 at 4.

4. Intervenor-Defendants anticipate that certain exhibits in the appendix will contain material that has been designated as "Confidential" pursuant to the Protective Order. Intervenor-

Defendants take no position regarding the propriety of the “Confidential” designation as to such information.

5. To overcome the “strong presumption” of public access to judicial records, the district court must articulate “the compelling, countervailing interests to be protected, make specific findings on the record concerning the effects of disclosure, and provide an opportunity for interested third parties to be heard.” *In re Avandia Mktg., Sales Pracs. & Prod. Liab. Litig.*, 924 F.3d 672–73 (3d Cir. 2019). The district court must also conduct a document-by-document review of the contents of the challenged documents. *Id.* at 673.

6. To comply with the Protective Order, Intervenor-Defendants seek leave to file under seal those materials designated by a party as Confidential.

7. Intervenor-Defendants attach a proposed order granting leave to file the provisionally sealed materials and setting forth a proposed schedule to give the Court the opportunity to review the specific documents at issue, consistent with *In re Avandia*, and for the parties to support or oppose any requested seal with particularized facts for the Court’s consideration. Specifically, Intervenor-Defendants propose that the seal on any document shall be automatically lifted unless, within ten (10) business days after the material is filed provisionally under seal, any party files a motion seeking continued sealing of any information it believes meets the Third Circuit’s standards for remaining under seal. If such a motion is filed, any opposing party shall then have ten (10) business days (excluding any federal holidays) to file a response.

Dated: April 19, 2023

Respectfully submitted,

/s/ Kathleen A. Gallagher

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